

City of Cathedral City

Medical Cannabis Administrative Rules

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City of Cathedral City

Medical Cannabis Administrative Rules

1. OVERVIEW

The City Council of the City of Cathedral City ("City") has adopted several ordinances establishing a comprehensive set of regulations allowing certain Medical Cannabis Businesses to operate within the City. Any person seeking to establish a Medical Cannabis Business within the City must obtain prior approval from the City before commencing operations. The Medical Cannabis Business ordinances adopted by the City Council set April 1, 2016 as the earliest date that the City will accept any application for a Medical Cannabis Business. These Administrative Regulations are intended to provide the public with a clear understanding of the process for obtaining approval of a Medical Cannabis Business in the City.

1.1 Required City Approvals

The City requires all Medical Cannabis Businesses within the City to obtain a Medical Cannabis License and a Conditional Use Permit in addition to any other generally applicable permits, licenses or approvals that are required of businesses that operate in the City, including but not limited to a City business license and an alarm permit. Depending on the specifics of the proposed Medical Cannabis Business other permits that may be required include building permits, sign permits, and design review. A separate Medical Cannabis License and Conditional Use Permit are required for each proposed location.

A proposed Medical Cannabis Business may submit applications for a Medical Cannabis License and a Conditional Use Permit at the same time, or may wait until after the Medical Cannabis License has issued to apply for a Conditional Use Permit. A Conditional Use Permit cannot be issued until after the Medical Cannabis License has been approved.

1.2 Allowable Types of Medical Cannabis Businesses

As defined in the ordinances, a Medical Cannabis Business is any person engaged in the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product. A Medical Cannabis License may be issued to a Medical Cannabis Business for some or all of those activities.

However, as of April 1, 2016, a Conditional Use Permit may only be issued for "Dispensaries" or "Cultivation Sites," as those terms are defined in Section 9.108.030(F) and (G) of the Cathedral City Municipal Code ("City Code"). A person who desires to open a Medical Cannabis Business in the City other than a Dispensary or Cultivation

Site cannot do so as of April 1, 2016, but may be able to do so in the near future. Any person who seeks to establish a Medical Cannabis Business other than a Dispensary or Cultivation Site in the City should ensure that the proposed business type is eligible for a Medical Cannabis License and Conditional Use Permit prior to submitting an application for the permit.

Furthermore, Dispensaries and Cultivation Sites may only be permitted in the zones listed in Section 9.108.080 of the City Code. As of April 1, 2016, Dispensaries and Cultivation Sites may be located in the I-1, CBP-2, and PCC zones, and Cultivation Sites may also be located in the OS zone. Dispensaries and Cultivation Sites are subject to other locational restrictions, as stated in Section 9.108.080 of the City Code, including minimum distance requirements from certain other types of uses. Any person who desires to open a Dispensary or Cultivation Site in the City should ensure that the proposed location of the use satisfies the City's locational restrictions in Section 9.108.080 prior to filing an application for either a Medical Cannabis License or a Conditional Use Permit.

1.3 Fees

The City intends to recover all of the costs associated with processing and issuing Medical Cannabis Licenses and Conditional Use Permits, and as such has determined that a deposit-based system is appropriate. At the time an application for a Medical Cannabis License is filed, the City will require the applicant to submit a \$7500 deposit with the City. This deposit will be used toward processing both the Medical Cannabis License and the Conditional Use Permit for the proposed Medical Cannabis Business. Staff will track the time and costs associated with processing both approvals and the deposit will be used to cover those costs. If the deposit is depleted prior to the issuance of either the Medical Cannabis License or Conditional Use Permit, staff will require the applicant to provide an additional deposit in an amount estimated to be sufficient to cover the remaining processing costs. If a replenishment deposit is not provided prior to the depletion of the deposit, staff may cease all work on the application(s) until the additional deposit monies are received. No Medical Cannabis License or Conditional Use Permit will be issued to any Medical Cannabis Business that has a deposit account that is in arrears. Any deposit money remaining after a final decision on the Conditional Use Permit application is made will be refunded to the applicant.

NOTE: If an application for a Medical Cannabis License is submitted concurrently with an application for a Conditional Use Permit, staff may begin processing the Conditional Use Permit application before a final decision is rendered on the Medical Cannabis License. The applicant will not be entitled to a refund of any deposit money spent toward processing the Conditional Use Permit if the Medical Cannabis License is denied. Therefore, submitting concurrent applications for a Medical Cannabis License and Conditional Use Permit is at your own risk.

1.4 Processing Time

There are many factors that impact the time it takes to process a Medical Cannabis License and Conditional Use Permit, including but not limited to, the number of background checks that must be completed, the nature of any criminal history of an applicant, the level of detail provided in the plans required as a part of each application, and whether the applications are complete when submitted. In addition, the City anticipates that there will be a high volume of applications filed within a relatively short time frame starting on April 1, 2016.

The background check portion of the Medical Cannabis License is the most time consuming aspect of the process but the City will use its best efforts to complete the background checks within sixty (60) days of the receipt of the results of the final set of Live Scan results associated with the application. The City is committed to processing these applications as expediently as possible, but due to the multitude of factors that impact processing times it cannot commit to a firm processing deadline.

2. MEDICAL CANNABIS LICENSE

2.1 Submission of Application

An applicant for a Medical Cannabis License must complete the application form required by the City and submit two (2) identical copies of the form. The application form shall be submitted to the City's Planning Division in person, along with the \$7500 deposit and the following documentation:

(a) Evidence that the applicant is, or will be, entitled to the possession of the premises for which the application is submitted. Acceptable evidence includes leases, rental agreements, recorded deeds evidencing ownership, and letters of intent. The City may accept other evidence as determined by the City Manager. If the Medical Cannabis Business is proposed to be located on real property that is not owned by the applicant, a notarized statement from the property owner that it agrees to a Medical Cannabis Business being operated on the property.

(b) Evidence of the ownership structure of any Medical Cannabis Business. Acceptable evidence includes articles of incorporation, by-laws, organizational minutes, articles of organization, and partnership agreements. The City may accept other evidence as determined by the City Manager.

(c) A general description of the products and services to be provided by the Medical Cannabis Business.

(d) A floor plan, drawn to scale on no smaller than 8.5 x 11 inch paper providing, at a minimum, all interior dimensions of the premises and the layout of the proposed Medical Cannabis Business. The floor plan must show which areas are limited access, all ingress and egress points, the principal uses of the floor area depicted, and the locations of security cameras.

(e) A security plan that addresses how the applicant intends to comply with and implement the requirements of Chapter 5.88.065 and other relevant provisions of the City Code and state law, including, but not limited to, a description of how the security measures are sufficient to ensure the safety of members and employees, protect the premises from diversion and theft, and ensure that buildings are secured sufficiently to prevent unauthorized entry. The security plan shall include a diagram indicating all areas to be covered by 24 hour security cameras and the methods the Medical Cannabis Business will use to ensure medical cannabis is under secure control of its staff at all times.

(f) A list of the Medical Cannabis Businesses' employees, if any. An updated employee list shall be provided to the City if there are any changes to the employee list at any time prior to the approval or denial of the Medical Cannabis License.

(g) If the application is for a Dispensary, an estimate of the size of the group of ID Card holders and/or Qualifying Patients who will be served by the Dispensary, and a statement as to whether delivery service will be provided.

(h) If delivery service will be provided, an explanation of the extent of such service and a detailed delivery plan explaining how the delivery service will comply with applicable Cathedral City ordinances and state law.

(i) A map prepared and signed by a licensed land surveyor stating that the premises meets the distance requirements set forth in Section 9.108.080 of the City Code. The distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the Medical Cannabis Business will be located to the nearest property line of the locations listed in Section 9.108.080. If the Business is proposed to be located within a multi-unit building, the measurements shall be taken from the nearest point of the suite in which the Business will be located, provided that the suite has been legally established and approved by the City prior to the submission of the application for the License.

Upon receipt of an application, the City will date and time stamp the application form, retaining one copy for the Planning Division. The second copy of the form will be date and time stamped and returned to the applicant. The Planning Division will also provide the applicant with a Live Scan form for each person identified in the application as an owner, director, officer, or person who is managing or otherwise responsible for the activities of the proposed Medical Cannabis Business. Live Scan forms will also be available on the City's website.

The City will perform a courtesy pre-screening of the application to identify any obvious deficiencies, including a preliminary determination of whether the proposed location of the Business meets the locational requirements for a Conditional Use Permit. The City will endeavor to complete the courtesy pre-screening within seven (7) business days of receipt of the application. The City will make a final determination within forty-five (45) calendar days after an application is submitted whether the application is

complete and provide a final list of the individuals who must undergo a background check. For purposes of issuance of the Medical Cannabis License, the application is considered “complete” if all required materials listed in this Section 2.1 have been submitted to the City. The completeness determination shall not include a site visit or analysis of the contents of the application for purposes of the Medical Cannabis License. Once an application is determined to be complete, written notice will be provided to the applicant.

If the application is determined to be incomplete, the City will provide the applicant with written notice and a list of the additional information required to process the application. The applicant shall have thirty (30) days from the date of the written notice to provide all of the additional information. Failure to provide all of the additional information within the thirty (30) day window will result in the application being deemed withdrawn.

2.2 Changes to an Application

The City may request any changes to an application or additional information it deems necessary at any time. An applicant may also make changes to its application after submission, except as listed below. Any changes made unilaterally by the applicant prior to the City’s determination that the application is complete will result in a reset of the forty-five day deadline for the City to make its completeness determination. Any changes made unilaterally by the applicant after a determination of completeness may also result in delays. Applicants are not allowed to make either of the following changes to an application:

(a) Once an application is determined to be complete and a final list of the individuals who must undergo a background check has been provided to the applicant, the applicant may not make any changes to the application that would impact the list of individuals who must undergo a background check.

(b) The proposed location of the Medical Cannabis Business may not be changed after receipt of the application by the City.

If an applicant desires to make either of these two types of prohibited changes, the applicant must withdraw the pending application and submit a new application.

2.3 Background Checks

All owners, directors, officers and persons who are managing or otherwise responsible for the activities of a proposed Medical Cannabis Business must submit to a background check as a part of the Medical Cannabis Licensing process. The City will make a final determination of which individuals are required to submit to a background check as a part of the licensing process when the application is determined to be complete. The designation of a person as the agent for service of process for the Medical Cannabis Business does not, in and of itself, require that person to be background checked. Employees and volunteers who are not managers or otherwise

responsible for the activities of the proposed Medical Cannabis Business are not required to submit to a background check as a part of the Licensing process. However, Section 5.88.065 requires the Medical Cannabis Business to conduct background checks of such individuals and keep them on file. Each Medical Cannabis Business shall be responsible for ensuring that all employees and volunteers who are not required by the City to submit to a background check as a part of the Medical Cannabis Licensing process are appropriately background checked prior to commencing work at the Medical Cannabis Business and the results of such background checks are maintained on file. City staff will conduct background check compliance audits once a Medical Cannabis Business is open.

Background checks consist of a two-step process: Live Scan and Background Investigation, as discussed in more detail below. **In the interest of expediency, the applicant may commence the background check process immediately after the submission of an application by causing the owners, directors, officers and persons who are managing or otherwise responsible for the activities of a proposed Medical Cannabis Business to submit to a Live Scan. However, applicants are cautioned that they will not be entitled to a refund of any deposit moneys spent on background checks.** Therefore, applicants may choose to wait to commence the background check process until after the City has completed the courtesy pre-screening or made a formal determination that the application is complete to minimize the potential for incurring non-refundable costs on an application that is ultimately withdrawn.

The background check process is done on an individual basis, meaning that if there are multiple individuals required to be background checked for an application the City will not hold up one person's background check due to delays by another person associated with the application. For example, if one owner submits to a Live Scan immediately after submitting the application and another owner waits a month to be Live Scanned, the background check for the first owner will proceed even though the second owner has not started the background check process. However, the background check process for an application cannot be completed until all persons required to submit to a background check have completed the process.

It is anticipated that all background checks, other than the Live Scan fingerprinting portion of the background checks, will be conducted by an outside contractor designated by the Chief of Police. However, the Chief of Police shall maintain discretion to cause the background checks to be conducted in whatever manner he deems fit. For purposes of these regulations, the person or persons conducting the background check are referred to as the "Background Investigator."

Step One: Each individual associated with the application must be fingerprinted using Live Scan technology. The individuals must personally appear at the Cathedral City Police Department and present a completed Request for Live Scan Service form and valid Driver's License or Identification Card. The City will not allow individuals to be Live Scanned at any location other than the Cathedral City Police Department. A representative from the

Cathedral City Police Department will scan the individual's fingerprints and transmit them to the Department of Justice. Individuals should schedule an appointment to be Live Scanned with the Cathedral City Police Department by calling (760) 770-0380. The date and time stamped copy of the Medical Cannabis License application form returned to the applicant by the Planning Division must also be submitted to the Police Department. It is strongly encouraged that all persons required to submit to a background check for an application submit to the Live Scan at the same appointment. If separate appointments are made, the first person associated with the application to submit to a Live Scan shall provide the Police Department with the date and time stamped application form.

Step Two: After an individual completes Step One, the Chief of Police or his designee will cause the Background Investigator to commence the background checks of that person. It is expected that the Background Investigator will be required to process multiple background checks simultaneously. In the event that priority must be established in the processing of multiple applications, the Background Investigator shall use reasonable judgment in allocating resources and consider the order in which all necessary materials were fully received by the City and any other reasonable factors.

The Background Investigator shall endeavor to complete the background check within sixty (60) days. Approximately thirty (30) days and again approximately forty-five (45) days after the receipt of a notification to proceed, the Background Investigator shall provide a written report to the Chief of Police indicating the general progress of the background check and whether he or she anticipates the background check will be completed within the sixty (60) day window. If the Background Investigator believes the background check will take longer than sixty (60) days, the Background Investigator shall explain in detail the reasons for the extension and provide an estimate of the additional time needed, subject to approval by the Chief of Police or his designee. If lack of cooperation on behalf of any person is part of the cause of the need for additional time, such information shall be expressly stated. In such event, the Chief of Police or designee shall immediately provide notification to the applicant in writing of the anticipated delay in completion of the background check. All persons undergoing the background check shall be required to fully cooperate with the Background Investigator. Applicants are expressly cautioned that failure to fully and timely cooperate by any person required to undergo a background check may result in delays in the completion of the background check, and/or a determination of denial.

The background check shall generally consist of, but not be limited to, a review of each individual's twenty (20) year residential history, a review of public records, a search to determine probation status, parole status, contacts with law enforcement, and an interview or interviews with the

Background Investigator as appropriate. The Background Investigator shall have reasonable discretion to go beyond these parameters where reasonably necessary to obtain additional information which is necessary to make a determination as to the applicant's qualifications for a Medical Cannabis License, as discussed in more detail below.

Once all of the background checks required for an application are complete, the Background Investigator shall prepare and submit a full report to the Chief of Police upon completion of the background check. The information shall be provided to the Chief of Police in a format that allows for separate consideration of each person who is required to undergo a background check. The report shall include, but shall not be limited to, information submitted or uncovered during the investigation which is necessary for a determination of whether there is "Good Cause" to deny the application, as discussed in more detail in Section 2.3(a)(ii) below. The Background Investigator shall be tasked solely with providing factual information in his or her report in order to provide the Chief of Police with a sufficient factual basis to make a determination as to whether the application should be approved or denied.

The Chief of Police shall review the report from the Background Investigator and make a recommendation as to whether the criminal history of one or more of the individuals indicates that Good Cause exists to deny the application (See Section 2.3(a)(ii) below for more information regarding the bases for making this recommendation). The Chief of Police's recommendation shall be issued in writing within ten (10) calendar days of his receipt of the report from the Background Investigator and shall include an explanation as to the Chief of Police's reasoning in making the recommendation, including the analysis bridging the facts to the ultimate conclusions. This ten (10) day period may be extended by a reasonable period by the City Manager upon a written finding that extraordinary facts exist creating the need for additional time, at the request of the Chief of Police. The recommendation of the Police Chief shall be provided to the City Attorney and City Manager for review.

2.4 Approval or Denial of License

The City Manager, or his designee, shall decide whether to approve or deny an application for a Medical Cannabis License after receiving the recommendation of the Police Chief regarding the background checks and consulting with the City Attorney. The City Manager will approve an application unless grounds for denial exist. The City Manager will use his best efforts to issue a decision to approve or deny a Medical Cannabis License within fifteen (15) days of the receipt of a final recommendation from the Police Chief regarding the background checks.

(a) Grounds for Denial.

(i) *Automatic Denial.* The City Manager must deny an application if it is determined that the applicant is prohibited from holding a Medical Cannabis License under Chapter 5.88 of the City Code or the Business & Professions Code § 19300 et seq.

(ii) *Discretionary Denial.* The City Manager may deny an application for “Good Cause”, as defined in Section 5.88.025(L) of the City Code. Good Cause exists if:

(1) The applicant has violated any provision of Chapter 5.88 of the City Code, including but not limited to Section 5.88.035, any state laws pertaining to medical cannabis or any rules or regulations adopted pursuant thereto, or any locally adopted rules or regulations.

(2) The premise that is the subject of the application has been operated in a manner that adversely affects the public health, safety or welfare or the safety of the immediate neighborhood in which the premises is located.

(3) The applicant has knowingly made false statement, misrepresentations or material omissions on the application form or any other document submitted to the City.

(4) An owner, officer or director of the applicant is a physician who is making recommendations for medical cannabis.

(5) The applicant has had a Medical Cannabis License revoked or has had more than one suspension of a Medical Cannabis License.

(6) The criminal history of the applicant does not indicate that the applicant is of “Good Moral Character” as defined in City Code section 5.88.025(M) and as further explained in Section 2.3(b) below.

(7) The applicant has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, as further explained in Section 2.3(c) below.

(b) Determination of Moral Character

“Good Moral Character” is defined as “having a personal history that demonstrates the propensity to serve the public in the licensed area in a manner that reflects openness, honesty, fairness, and respect for the rights of others and for the law.” In general, a judgment of guilt in a criminal prosecution or a judgment in a civil action is not, in and of itself, conclusive proof of a person’s lack of Good Moral Character, but may be used as evidence in making the determination. However, if an applicant has been convicted of any of the following types of offenses, that conviction alone may be used as evidence that the applicant lacks Good Moral Character and the City may deny the License:

(i) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance.

(ii) A felony conviction for selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

(iii) A felony conviction for drug trafficking with enhancements pursuant to Sections 11370.4 or 11379.8 of the Business and Professions Code.

Due to the subjectivity of the determination of one's moral character, the City will allow a person who is preliminarily determined to not be of Good Moral Character to provide rebuttal evidence prior to a final determination on the License, as discussed in Section 2.3(d) below.

(c) Convictions Substantially Related to Medical Cannabis Businesses

In making a determination as to whether a conviction is "substantially related to the qualifications, functions, or duties of the business or profession for which the application is made," Section 5.88.025(L)(4) of the City Code states that the City Manager "shall only consider the factors as set forth in Section 19323(b)(5) of the Business and Professions Code." Section 19323(b)(5) consists of a non-exclusive list of the convictions that are considered to be "substantially related." Therefore, consistent with Section 19323(b)(5), and the City shall consider convictions for the following offenses to be substantially related:

(i) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

(ii) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code. A copy of subdivision (c) of Section 667.5 of the Penal Code is attached to these regulations as Appendix A.

(iii) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code. A copy of subdivision (c) of Section 1192.7 of the Penal Code is attached to these regulations as Appendix B.

(iv) A felony conviction involving fraud, deceit, or embezzlement.

If an applicant has been convicted of any of these crimes, the City Manager may nonetheless grant the requested Medical Cannabis License if it is determined that the applicant has otherwise satisfied all of the requirements for the issuance of a License and issuing the License would not compromise public safety. In determining that public safety would not be compromised, the City shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of the rehabilitation of the individual.

Due to the subjectivity of the determination of whether a person has been rehabilitated and no longer poses a threat to the public safety, the City will allow a person who has been convicted of any of the above listed offenses to provide evidence of rehabilitation prior to a final determination on the License, as discussed in Section 2.3(d) below.

(d) Rebuttal Evidence

If the recommendation of the Police Chief is to deny the requested Medical Cannabis License based on the applicant's lack of Good Moral Character or convictions for offenses that are substantially related to the qualifications, functions, or duties of a Medical Cannabis Business, the City Manager shall notify the applicant of the City's preliminary determination via both regular mail and certified mail, return receipt requested. The notice shall state that if the applicant disagrees with the preliminary determination and desires to submit any evidence rebutting the determination, the applicant shall notify the City of its intent to submit evidence in writing within ten (10) days of the date the notice was received. If a notice of intent to submit evidence is not timely submitted by the applicant, the applicant is deemed to have waived his or her right to submit rebuttal evidence and the City Manager may proceed to make a final determination on the License in consultation with the City Attorney.

If the City receives a timely notice of intent to submit evidence, the applicant shall request a conference before the Chief of Police at which time the applicant may submit his or her rebuttal evidence within ninety (90) days of service of the notice of preliminary determination. If the applicant does not request a conference within this timeframe, the applicant is deemed to have waived his or her right to submit rebuttal evidence and the City Manager may proceed to make a final determination on the License in consultation with the City Attorney.

The conference shall be scheduled before the Chief of Police or designee in no less than ten (10) days and no more than thirty (30) days from the date the request is received, unless the applicant agrees to a different date for the conference in writing. The Chief of Police or designee shall cause the conference to be scheduled and notice of the date, time, and location of the conference to the applicant in writing as soon as practicable, and no less than seven (7) calendar days before the conference date. If the applicant is unavailable on the date scheduled, the applicant may contact the office of the Chief of Police to request a different date, and the Chief of Police shall accommodate the applicant's schedule to the extent practicable.

At the conference, the applicant may provide any testamentary or documentary evidence to establish that it is entitled to pass the background check. The applicant may be, but need not be, represented by an attorney. The Background Investigator and any other persons deemed necessary by the Chief of Police shall personally attend the conference and may be examined by the applicant. The Chief of Police shall preside over the conference, which shall be informal in nature. At the conclusion of the conference, the Chief of Police shall issue a written determination within ten (10) days to the City Manager and City Attorney. The Chief of Police may affirm, reverse, or modify in any respect his recommendation. After the Chief of Police submits his determination to the City Manager and City Attorney, the City Manager may proceed to make a final determination on the License in consultation with the City Attorney.

2.5 Notification of Decision/Appeals

The City Manager shall notify the applicant in writing by regular and certified mail, return receipt requested of his decision to approve or deny a Medical Cannabis License. If the City Manager's decision is to approve the License, the notice shall state that the License will not be issued until the applicant posts a cash deposit or letter of credit in the amount of \$5000 as the security required by Section 5.88.040(I)(5) of the City Code. The Medical Cannabis License shall not be considered final, and no Conditional Use Permit may be issued, until this amount is posted. The notice shall inform the applicant that it or any other person may appeal the decision to the City Council in accordance with Section 2.04.100 et seq. of the City Code.

3. CONDITIONAL USE PERMIT

3.1 Procedural Considerations

As previously stated, a person may apply for a Conditional Use Permit concurrently with a Medical Cannabis License or may wait to apply until after the Medical Cannabis License has been approved. If the applications are submitted concurrently, the application for a Conditional Use Permit will not be formally considered complete for the purposes of the Permit Streamlining Act (Government Code § 65940 et seq.) until the Medical Cannabis License has been approved. However, in the interest of expediency, the City may begin processing the Conditional Use Permit application prior to the issuance of the Medical Cannabis License. The City will not schedule the Conditional Use Permit for a public hearing before the Planning Commission until a Medical Cannabis License has been approved by the City Manager and the appeal period has expired or all appeals have been exhausted. If the Medical Cannabis License is denied, the Conditional Use Permit application will be deemed incomplete, all work will cease on the Conditional Use Permit, and the applicant will be refunded any balance left of its deposit.

Applicants are advised that the Conditional Use Permit application may require at least one site visit by City Planning staff and the potential need to revise submitted plans to ensure they comply with all applicable laws and regulations prior to scheduling of the hearing before the Planning Commission.

Proof of the issuance of a Medical Cannabis License to the applicant will be considered to satisfy some of the application requirements, as noted in Section 3.2(a) below. Therefore, the Conditional Use Permit submittal package for an applicant who has already received a Medical Cannabis License will be smaller than the submittal package for an applicant that has applied or is applying for both approvals concurrently.

3.2 Submission of Application

An applicant for a Conditional Use Permit for a Medical Cannabis Business must complete the application form required by the City. The application form shall be submitted to the City in person, along with the following documentation:

(a) Proof that the applicant has received a Medical Cannabis License for the premises, or a statement the applicant has applied for a Medical Cannabis License concurrently with the Conditional Use Permit. If the applicant submits proof that it has received a Medical Cannabis License, the documentation listed in subsections b, e, g and h below do not need to be submitted as the Medical Cannabis License is deemed to satisfy those requirements.

(b) A floor plan, drawn to scale on no smaller than 8.5 x 11 inch paper, of the Medical Cannabis Business denoting the use of all areas of the premises, including storage, employee areas, restrooms, and areas of ingress and egress, the location of security cameras and exterior lighting, and signage.

(c) If the Medical Cannabis Business is proposed to occupy an existing building, plans and specifications for the interior of the building as built and plans and specifications for any proposed alterations to the building.

(d) If the Medical Cannabis Business is proposed to occupy new construction, a plot plan, detailed sketch of the interior of the premises, and an architect's drawing of the building.

(e) If the Medical Cannabis Business is proposed to be located on real property that is not owned by the applicant, a notarized statement from the property owner that it agrees to a Medical Cannabis Business being operated on the property.

(f) For new construction, a site plan of the premises evidencing that the design of the premises conforms to City Code and design requirements.

(g) A security plan that addresses how the applicant intends to comply with and implement the requirements of Chapter 5.88.065 and other relevant provisions of the City Code and State law, including, but not limited to, a description of how the security measures are sufficient to ensure the safety of members and employees, protect the premises from diversion and theft, and ensure that buildings are secured sufficiently to prevent unauthorized entry. The security plan shall include a diagram indicating all areas to be covered by 24 hour security cameras and the methods the Medical Cannabis Business will use to ensure medical cannabis is under secure control of its staff at all times.

(h) A map prepared and signed by a licensed land surveyor stating that the premises meets the distance requirements set forth in Section 9.108.080 of the City Code. The distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the Medical Cannabis Business will be located to the nearest property line of the locations listed in Section 9.108.080. If the Business is proposed to be located within a multi-unit building, the measurements shall be taken from the nearest point of the suite in which the Business will be located, provided that the suite has been legally established and approved by the City prior to the submission of the application for the Conditional Use Permit.

(i) Verification that an odor filtration system meeting the requirements of Section 9.108.050(C) will be installed.

(j) For Cultivation Sites,

(i) A description of the source of electricity, the size of the electrical service or system, and the total demand to be placed on the system by all proposed uses on the site.

(ii) An environmental plan indicating how cultivation will be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, and agricultural discharges.

(iii) Verification of the source(s) of water for cultivation.

3.3 Background Checks

In general, background checks will be done through the Medical Cannabis License process as described above and will not be required as a part of the Conditional Use Permit process. However, supplemental background checks may be required in limited circumstances.

(a) Non-concurrent Applications

If an application for a Conditional Use Permit is submitted after a Medical Cannabis License has been issued to the applicant, a supplemental background check may be required. Furthermore, the application form requires any criminal history occurring after the issuance of a Medical Cannabis License to be disclosed.

If new criminal history is disclosed on the application form or more than six (6) months has passed between the issuance of the Local License and the application for a Conditional Use Permit, each owner, director, officer or other person managing or otherwise responsible for the Medical Cannabis Business must undergo a new Live Scan. If no new criminal history is found on the Live Scan results, no further background check is required. If new criminal history is found the Chief of Police may, in his discretion, cause the Background Investigator to conduct an investigation of the new criminal history and prepare an update to his or her report. The standards and procedures discussed in Section 2.2 above apply to any background check update required by this section.

(b) New Background Information Is Discovered

Regardless of whether an application for a Conditional Use Permit is submitted concurrently with or after the Medical Cannabis License, if criminal history or other relevant information relating to the applicant's background comes to light that was not disclosed by the applicant or discovered by the City during the Medical Cannabis Licensing process, the Chief of Police may, in his discretion, cause the Background Investigator to conduct an investigation of the new criminal history or other information

and prepare an update to his or her report. The standards and procedures discussed in Section 2.2 above apply to any background check update required by this section.

3.4 Approval or Denial of Permit

(a) Approval

A Conditional Use Permit may only be approved by the Planning Commission if the findings for conditional use permits generally, contained in Section 9.72.010 of the City Code, can be made in addition to the following findings specific to Medical Cannabis Businesses:

(i) The Medical Cannabis Business as well as all operations as conducted therein, fully comply with all applicable building, zoning and fire Codes, accessibility requirements of the Americans with Disability Act, and all relevant City and State Law; and

(ii) The Medical Cannabis Business fully complies with and meet all operating criteria required pursuant to State Laws, Chapter 5.88 of this Code, any other provisions of this Code, and any specific, additional operating procedures and measures as may be imposed as conditions of approval in the Conditional Use Permit; and

(iii) For Dispensaries, the number, type, and availability of Dispensaries located in or near the premises are such that the issuance of a conditional use permit to the Applicant will not result in or add to an undue concentration of Dispensaries and/or result in a need for additional law enforcement resources.

(b) Denial

To deny a Conditional Use Permit, the Planning Commission must make at least one of the following findings:

(i) The findings required by Section 9.72.010 for the granting of a conditional use permit cannot be made.

(ii) The findings required by Section 9.108.060(A) (listed above in Section 3.4(a)(i)-(iii) of these regulations) cannot be made.

(iii) The Medical Cannabis Business does not meet the locational and other requirements in Section 9.108.080.

(iv) Good Cause exists to deny the Conditional Use Permit. Good Cause shall be determined in the same manner as for Medical Cannabis Licenses, as discussed in Section 2.3(a)(ii) above, except that the Planning Commission shall not consider any criminal history of the applicant that was disclosed to or discovered by the City prior to the issuance of the Medical Cannabis License in making a determination of whether Good Cause exists.

3.5 Notification of Decision/Appeals

The Planning Department shall notify the applicant in writing by regular and certified mail, return receipt requested of the Planning Commission's decision to approve or deny a Conditional Use Permit. The notice shall inform the applicant that it or any other person may appeal the decision to the City Council in accordance with Section 9.72.080 of the City Code.

3.6 Conditions of Approval

In addition to any other conditions of approval the Planning Commission determines are appropriate, each Conditional Use Permit shall include the following conditions:

(a) Indemnity Agreement

Section 9.108.120(A) of the City Code requires a successful applicant for a Conditional Use Permit to execute an indemnity agreement. The applicant must sign and return the required indemnity agreement within ten (10) days of the approval of the Conditional Use Permit. The Conditional Use Permit shall contain a condition of approval that provides it will not take effect until the indemnity agreement is signed and returned to the City.

(b) Commercial General Liability Insurance Requirement

Prior to the issuance of a certificate of occupancy, all Medical Cannabis Businesses shall be required to secure and maintain insurance written on an occurrence basis to protect the Medical Cannabis Business and the City against liability or claims of liability which may arise out of the operation of the Medical Cannabis Business in the amount of one million dollars (\$1,000,000) per occurrence and subject to an annual aggregate of two million dollars (\$2,000,000). Coverage shall be at least as broad as Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001). There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. additional insured claims or contractual liability. All defense costs shall be outside the limits of the policy. The City, and its respective elected and appointed officers, officials, and employees and volunteers are to be named and covered as additional insureds. Certificates of insurance must be submitted to the City prior to the issuance of a certificate of occupancy.

(c) Fire Sprinklers

For Cultivation Sites, the Fire Department considers these uses to be a Group F-1 (Factory Industrial Moderate-hazard Occupancy). All new construction is required to be fire sprinkled per the Fire Code. For Cultivation Sites that will be sited in an existing structure, an automatic sprinkler system shall be provided throughout all buildings containing a Group F-1 occupancy where one of the following conditions exists:

- (i) A Group F-1 fire area exceeds 12,000 square feet.
- (ii) A Group F-1 fire area is located more than three stories above grade plane.
- (iii) The combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet.

APPENDIX A

Section 667.5(c) of the California Penal Code

(c) For the purpose of this section, "violent felony" shall mean any of the following:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286.
- (5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
- (9) Any robbery.
- (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- (11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.
- (12) Attempted murder.
- (13) A violation of Section 18745, 18750, or 18755.
- (14) Kidnapping.
- (15) Assault with the intent to commit a specified felony, in violation of Section 220.
- (16) Continuous sexual abuse of a child, in violation of Section 288.5.
- (17) Carjacking, as defined in subdivision (a) of Section 215.
- (18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.
- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22.
- (20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22.
- (21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.

(22) Any violation of Section 12022.53.

(23) A violation of subdivision (b) or (c) of Section 11418. The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person.

APPENDIX B

Section 1192.7(c) of the California Penal Code

(c) As used in this section, "serious felony" means any of the following:

(1) Murder or voluntary manslaughter; (2) mayhem; (3) rape; (4) sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) lewd or lascivious act on a child under 14 years of age; (7) any felony punishable by death or imprisonment in the state prison for life; (8) any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) attempted murder; (10) assault with intent to commit rape or robbery; (11) assault with a deadly weapon or instrument on a peace officer; (12) assault by a life prisoner on a noninmate; (13) assault with a deadly weapon by an inmate; (14) arson; (15) exploding a destructive device or any explosive with intent to injure; (16) exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem; (17) exploding a destructive device or any explosive with intent to murder; (18) any burglary of the first degree; (19) robbery or bank robbery; (20) kidnapping; (21) holding of a hostage by a person confined in a state prison; (22) attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) any felony in which the defendant personally used a dangerous or deadly weapon; (24) selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code; (25) any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; (26) grand theft involving a firearm; (27) carjacking; (28) any felony offense, which would also constitute a felony violation of Section 186.22; (29) assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220; (30) throwing acid or flammable substances, in violation of Section 244; (31) assault with a deadly weapon, firearm, machinegun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245; (32) assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Section 245.2, 245.3, or 245.5; (33) discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246; (34) commission of rape or sexual penetration in concert with another person, in violation of Section 264.1; (35) continuous sexual abuse of a child, in violation of Section 288.5; (36) shooting from a vehicle, in violation of

subdivision (c) or (d) of Section 26100; (37) intimidation of victims or witnesses, in violation of Section 136.1; (38) criminal threats, in violation of Section 422; (39) any attempt to commit a crime listed in this subdivision other than an assault; (40) any violation of Section 12022.53; (41) a violation of subdivision (b) or (c) of Section 11418; and (42) any conspiracy to commit an offense described in this subdivision.